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in the news

Employee Benefits & Executive Compensation

May 2015

Update: Multiemployer Pension Plans

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*In this **Update Series**, we will provide continuing updates on the key developments relating to multiemployer pension plans, as well as practical considerations for the companies that participate in them. These union benefit funds pose unique and significant business risks, which are more important than ever to understand due to recent changes made by the Multiemployer Pension Reform Act of 2014 (MPRA). As the post-MPRA landscape evolves, including how your collective bargaining strategies may need to be adjusted, we will keep you apprised of the potential impact on your company's withdrawal liability exposure and other business risks.*

For our previous installments of the Update Series, please see: February 2015 | March 2015.

April 2015 Developments for Multiemployer Pension Plans

1. Central States Provides Update on Potential Benefit Reductions Under the MPRA Rules

In early April, the Central States Pension Fund launched a new website to update its 400,000 plan participants, contributing employers, and other interested parties on its decisions to implement the MPRA changes. Central States notes that its pension fund currently has more than three times as many retirees as active members. Due to these unfavorable demographics and its billions of dollars of unfunded liabilities, the fund expects to announce a "rescue plan" over the summer that will presumably include reductions in benefit levels. According to Central States, due to the strict MPRA procedures and timelines for seeking benefit reductions, its rescue plan will likely not be implemented until 2016 at the earliest.

Our View: We suspect that other distressed multiemployer funds will issue announcements to their participants and contributing employers that are similar to those from Central States. Companies may also want to consider following up with the fund trustees to get updates on any decisions they may have already made to implement the MPRA changes.

2. Key Actuarial Organization Submits Comment Letter to IRS

On April 6, 2015, the American Academy of Actuaries ("AAA") submitted a detailed comment letter to the IRS on the benefit suspension rules for distressed multiemployer funds under the MPRA. The AAA's comment letter addresses the various procedures and actuarial practices that multiemployer funds will need to consider before they can seek reductions in benefit levels under the MPRA rules.

Our View: Because distressed multiemployer pension funds must make certain actuarial determinations and certifications before they can seek benefit reductions, the AAA comment letter is illustrative of the important roles that actuaries will have as the funds make their decisions under the MPRA rules.

3. Congressional Subcommittee Holds Hearing on State of Multiemployer Pension Plans

On April 29, 2015, the House Education & the Workforce's Subcommittee on Health, Employment, Labor and Pensions held a hearing to discuss ways to strengthen the current multiemployer pension plan system. The hearing included testimony from large employers, pension fund representatives, and lobbying groups. In particular, there was extensive discussion on a proposal submitted by the National Coordinating Committee for Multiemployer Plans ("NCCMP"). The NCCMP proposal recommends that fund trustees replace defined benefit pension formulas with "composite" designs, which combine features of traditional designs (such as annuity forms of payment) with features of "defined contribution" plans. This combination would provide greater cost certainty for employers and the eventual phase-out of withdrawal liability exposures.

Our View: The hearing indicates that Congress may eventually consider additional legislative changes for multiemployer pension funds. In particular, if enacted in its current form, the NCCMP proposal could provide a powerful tool for underfunded plans to make the plans more attractive for participating employers.

Q & A

Question: What is the present state of the multiemployer pension plan system?

Answer: There are currently over 1,400 multiemployer pension plans in the United States, covering more than 10 million union workers. According to the most recent reporting from the PBGC, more than 10% of plans are "substantially underfunded" and may become insolvent in the future. The total unfunded liabilities for all multiemployer pension plans is estimated to be over $300 billion.

More Polsinelli MPRA Intelligence:

eALERT - Employers Should Start Preparing Now for Big Changes Coming to Multiemployer Pension Plans

eALERT - Recent Developments for Multiemployer Pension Plans

PODCAST: Major Changes to Multi-Employer Pension Plans

WEBINAR: A Road Map to Major Changes Coming to Multi-

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Employer Pension Plans: What Participating Employers Should Do Now Want the slides? Download here.

MPRA Counseling Services

Polsinelli offers a suite of fixed-fee services to help your company better understand the potential impact of the MPRA on each multiemployer fund to which it makes pension contributions. Learn more about our fixed-fee counseling services.

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To automatically receive information on the impacts of the MPRA on Twitter, please follow our Employee Benefits and Executive Compensation practice group.

For More Information

Our attorneys have extensive experience helping companies address complex issues under multiemployer pension plans. If you should have any questions regarding this Update Series, please contact your Polisnelli attorney or any of the individuals shown below.

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Polsinelli has a diverse group of Employee Benefits attorneys who cover all aspects of plan creation and design, plan compliance and executive compensation agreements. Our attorneys have more than 100 years of combined employee benefits experience which we focus on providing practical, proactive advice, while also striving to develop innovative solutions to our clients' employee benefit needs.

Our firm has experience working with public and private businesses, as well as governmental and nonprofit entities to design, implement and effectively administer plans that meet their business needs.

In this increasingly complex area of compliance responsibility, our team works with clients to not only minimize the risk of problems, but to develop proactive strategies in ways that benefit a business' culture, as well as its bottom line. A key to such success lies in the development of initial advisory alerts, training programs, educational campaigns, and regular internal memoranda that properly outline compliance obligations, as well as the elements of the organization's successful usage of such arrangements.

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* Law360, March 2014
** *The American Lawyer* 2013 and 2014 reports

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